

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DANIEL HOPKINS,

Plaintiff,

v.

INTEGON GENERAL INSURANCE  
CORPORATION,

Defendant.

NO. 2:18-cv-01723-MJP

DEFENDANT'S REVISED JURY  
INSTRUCTIONS

The parties were unable to agree on the Damages Instruction (Plaintiff's Jury Instruction No. 23 and Defendant's Jury Instruction No. 40) and, as a result, are submitting separate revised instructions regarding the measure of damages. Attached is Defendant's revised proposed Measure of Damages Instruction.

DEFENDANT'S REVISED JURY INSTRUCTIONS - 1  
(2:18-cv-01723-MJP)

Williams, Kastner & Gibbs PLLC  
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Seattle, WA 98101-2380  
(206) 628-6600

1 DATED this 30th day of September, 2020.

2 s/Eliot M. Harris

Eliot M. Harris, WSBA # 36590

3 s/Christine J. Lee

4 Christine J. Lee, WSBA # 43231

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10 *Attorneys for Defendant*

11 *Integon General Insurance Corporation*

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DATED this 30th day of September, 2020.

s/ Eliot M. Harris  
Eliot M. Harris, WSBA # 36590

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## ATTACHMENT

JURY INSTRUCTION NO. 40  
MEASURE OF DAMAGES

It is the duty of the court to instruct you as to the measure of damages. By instructing you on damages the court does not mean to suggest for which party your verdict should be rendered.

If your verdict is for the Plaintiff for his claim for insurance benefits, then you must determine the amount of money that will reasonably and fairly compensate the Plaintiff for such damages as you find were proximately caused by the negligence of Ms. Montes. If your verdict is for Defendant, then you need not make this determination.

If you determine that damages are owed to Plaintiff Hopkins for his claim for insurance benefits, you should consider the following noneconomic damages elements to determine the value of his claim for insurance benefits:

- The nature and extent of the injuries;
- The disability and loss of enjoyment of life experienced and with reasonable probability to be experienced in the future.
- The pain and suffering, both mental and physical, and inconvenience experienced and with reasonable probability to be experienced in the future;

In addition to his claim for insurance benefits, Plaintiff Hopkins has asserted claims for CPA, IFCA, duty to act in good faith, and negligence, each of which has its own elements of damages. The Court will instruct as to those damages elements at the conclusion of trial.

The burden of proving damages rests upon the Plaintiff Hopkins. It is for you to determine, based upon the evidence, whether any particular element has been proved by a preponderance of the evidence.

Your award must be based upon evidence and not upon speculation, guess, or conjecture.

1           The law has not furnished us with any fixed standards by which to measure noneconomic  
2 damages. With reference to these matters you must be governed by your own judgment, by the  
3 evidence in the case, and by these instructions.<sup>1</sup>

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<sup>1</sup> 9th Cir. Model Instr. 5.2; WPI 30.01.01 [modified]